IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 55 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE PETROCHEMICALS CORPN. LTD.

Versus

COMMISSIONER OF INCOME TAX

Appearance:

1. INCOME TAX REFERENCE No. 55 of 1990

MR MJ SHAH for MR JP SHAH for Petitioner No. 1

MR AKIL KURESHI for MR MANISH R BHATT for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 09/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the assessee, the following question is referred for our opinion in respect of assessment years 1981-82, 1982-83 and 1985-86:-

"Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that the interest earned by the assessee during pre-production stage is not a receipt on capital account which will reduce the cost of the project and is taxable as income under `other sources?"

2. We have heard Mr. M.J. Shah learned counsel for the applicant-assessee and Mr. Akil Kureshi learned counsel for the revenue.

3. Our attention has been invited to the decision of the Supreme Court in Tuticorin Alkali Chemicals and Fertilizers Ltd. vs. CIT 227 ITR 172 which was also followed by this Court in the case of this very assessee in the decision dated 14-8-2001 in Income Tax Reference No.94 of 1987.

4. Following the aforesaid decisions, our answer to the question is in the affirmative i.e. in favour of the revenue and against the assessee.

5. The Reference accordingly stands disposed of with no order as to costs.

(M.S. Shah,J)

(D.A. Mehta,J)

zgs/-